

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE SENATE BILL 5862**

67th Legislature  
2022 Regular Session

Passed by the Senate February 9, 2022  
Yeas 45 Nays 0

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**President of the Senate**

Passed by the House March 4, 2022  
Yeas 95 Nays 3

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**Speaker of the House of  
Representatives**

Approved

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**Governor of the State of Washington**

CERTIFICATE

I, Sarah Bannister, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 5862** as passed by the Senate and the House of Representatives on the dates hereon set forth.

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**Secretary**

FILED

**Secretary of State  
State of Washington**

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**SUBSTITUTE SENATE BILL 5862**

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Passed Legislature - 2022 Regular Session

**State of Washington**

**67th Legislature**

**2022 Regular Session**

**By** Senate Housing & Local Government (originally sponsored by Senators Lovelett, Rivers, Fortunato, Gildon, Kuderer, Lovick, Nguyen, Nobles, Stanford, C. Wilson, and J. Wilson)

READ FIRST TIME 02/03/22.

1       AN ACT Relating to technical changes to the commercial property  
2 assessed clean energy and resiliency program; amending RCW  
3 36.165.060; and declaring an emergency.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5       **Sec. 1.** RCW 36.165.060 and 2020 c 27 s 7 are each amended to  
6 read as follows:

7       (1) The C-PACER lien amount plus any interest, penalties, and  
8 charges accrued or accruing on the C-PACER lien:

9       (a) Takes precedence over all other liens or encumbrances except  
10 a lien for taxes imposed by the state, a local government, or a  
11 junior taxing district on real property, which liens for taxes shall  
12 have priority over such benefit C-PACER lien, provided existing  
13 mortgage holders, if any, have provided written consent described in  
14 RCW 36.165.070; and

15       (b) Is a first and prior lien, second only to a lien for taxes  
16 imposed by the state, a local government, or a junior taxing district  
17 against the real property on which the C-PACER lien is imposed, from  
18 the date on which the notice of the C-PACER lien is recorded until  
19 the C-PACER lien, interest, penalties, and charges accrued or  
20 accruing are paid.

1 (2) The C-PACER lien runs with the land, and that portion of the  
2 C-PACER lien that has not yet become due is not accelerated or  
3 eliminated by foreclosure of the C-PACER lien or any lien for taxes  
4 imposed by the state, a local government, or junior taxing district  
5 against the real property on which the C-PACER lien is imposed.

6 (3) Delinquent installments due on a C-PACER lien incur interest  
7 and penalties as specified in the financing agreement.

8 (4) After the C-PACER lien is recorded as provided in this  
9 section, the voluntary assessment and the C-PACER lien may not be  
10 contested on the basis that the improvement is not a qualified  
11 improvement or that the project is not a qualified project.

12 (5) (~~Collection~~) Billing, collection, and enforcement of  
13 delinquent C-PACER liens or C-PACER (~~financing installment payments,~~  
14 ~~including foreclosure, shall remain~~) assessment installments,  
15 including through foreclosure as set forth in subsection (6) of this  
16 section, are the responsibility of the capital provider.

17 (6) (~~The C-PACER lien shall be enforced by the capital provider~~  
18 ~~at any time after one year from the date of delinquency in the same~~  
19 ~~manner that the collection of delinquent real property taxes is~~  
20 ~~enforced by the county under chapter 84.64 RCW, including the~~  
21 ~~provisions of RCW 84.64.040, excepting that a sworn declaration by~~  
22 ~~the capital provider or assignee attesting to the assessment~~  
23 ~~delinquency of at least one year shall be used in lieu of the~~  
24 ~~certificate required under RCW 84.64.050~~) (a) The assessment and C-  
25 PACER lien shall be assigned by the county to the capital provider at  
26 the close of any approved C-PACER financing by the county, as  
27 provided in RCW 36.165.050(3). The C-PACER lien, as assigned to the  
28 capital provider shall maintain the same precedence and priority and  
29 characteristics set forth in this section. The C-PACER lien may be  
30 enforced with respect to delinquent C-PACER assessment installments  
31 by the capital provider at any time after one year from the date of  
32 delinquency, and may be foreclosed in the same manner as a mortgage  
33 lien under chapter 61.12 RCW, except that no sale of the property  
34 shall discharge or in any manner affect the priority of the C-PACER  
35 lien with respect to installments not yet due and payable at the time  
36 of sale, as provided in subsections (1)(b) and (2) of this section,  
37 and no deficiency judgment may be sought by the capital provider with  
38 respect to any unpaid assessment at the time of sale. The  
39 participation of the county sheriff in any such foreclosure action  
40 shall not be deemed in violation of, or inconsistent with, the

1 provisions of this chapter limiting the role of the county in the  
2 enforcement of a C-PACER lien.

3 (b) In a foreclosure proceeding to collect delinquent C-PACER  
4 assessment installments and enforce a C-PACER lien, the capital  
5 provider shall have the right to collect delinquent interest and  
6 penalties in the manner provided by the financing agreement. The  
7 capital provider shall include, in any action to foreclose the C-  
8 PACER lien, the amount of any outstanding liens for taxes imposed by  
9 the state, a local government, or a junior taxing district against  
10 the real property having priority over the C-PACER lien as provided  
11 in subsection (1)(a) of this section, and the proceeds of any  
12 foreclosure sale of the property shall be applied first to the  
13 payment of such outstanding taxes to the extent necessary to satisfy  
14 such lien, and then to the delinquent assessments, interest, and  
15 penalties secured by the C-PACER lien.

16 (7) The capital provider may sell or assign, for consideration,  
17 any and all liens received from the participating county. The capital  
18 provider or their assignee shall have and possess the same powers and  
19 rights at law or in equity to enforce the C-PACER lien in the same  
20 manner as described in subsection (6) of this section.

21 NEW SECTION. Sec. 2. This act is necessary for the immediate  
22 preservation of the public peace, health, or safety, or support of  
23 the state government and its existing public institutions, and takes  
24 effect immediately.

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